

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

QUILLON EDWARD CLEMONS,

Plaintiff,

v.

PAUL PASTOR, MARTHA KARR,
ERICKA ZIMMERMAN, MARY
SCOTT, and JUDY SNOW,

Defendants.

No. C10-5235 RJB/KLS

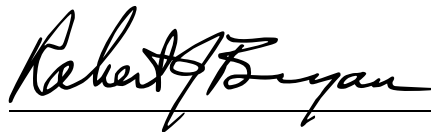
**ORDER ADOPTING REPORT AND
RECOMMENDATION**

The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L. Strombom (Dkt. 39), objections to the Report and Recommendation (Dkt. 42), plaintiff's Motion to Subpoena (Dkt. 41), plaintiff's Motion for Summary Judgment (Dkt. 42), and the remaining record, does hereby find and **ORDER**:

- (1) In his objections to the Report and Recommendation (captioned Motion for Summary Judgment), plaintiff cites to a case in which jail officials were allegedly indifferent to a prisoner's serious needs related to HIV; and provides medical records showing plaintiff has a shoulder injury. Dkt. 42. Plaintiff's objections are insufficient to rebut the conclusions of the magistrate judge. The Court adopts the Report and Recommendation (Dkt. 39).
- (2) Defendants' motion to dismiss (Dkt. 31) is **GRANTED** as to Plaintiff's claims relating to (1) failure to process grievances and (2) food, and these claims are **DISMISSED**.

- 1 (3) Defendants' motion to dismiss (Dkt. 31) is **DENIED** as to Plaintiff's
2 claims relating to (1) medical care; (2) temperature in his cell; (3) sanitary
3 conditions of his cell; (4) excessive noise; and (5) failure to train
4 subordinates. Plaintiff may file an amended complaint to state facts
5 relating to these claims only. In filing an amended complaint, plaintiff is
6 required to show how each defendant personally participated in the alleged
7 violation of his constitutional rights. Plaintiff shall file his amended
8 complaint **on or before January 14, 2011**.
- 9 (4) Plaintiff should not be permitted to conduct discovery until an acceptable
10 amended complaint has been filed. Therefore, plaintiff's Motion to
11 Subpoena, requesting that the court order the Pierce County Jail to provide
12 medical records to plaintiff at no cost (Dkt. 41) is DENIED. Further, any
13 discovery plaintiff wishes to procure from defendants should be made
14 through the discovery rules set forth in Fed.R.Civ.P. 26-37, and should not
15 be made by motion to the court. All discovery in this matter is STAYED
16 pending further order of the court.
- 17 (5) Plaintiff's Motion for Summary Judgment (Dkt. 42) is DENIED, as premature
18 and without merit.
- 19 (6) This matter is **re-referred** to the Honorable Karen L. Strombom, United
20 States Magistrate Judge.
- 21 (7) The Clerk is directed to send copies of this Order to Plaintiff, counsel for
22 Defendant and to the Honorable Karen L. Strombom.

23 **DATED** this 22nd day of December, 2010.

24 

25 ROBERT J. BRYAN
26 United States District Judge